IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.1101/03

Ajay Singh **Versus** State & Ors.

DATE OF ORDER :: 14/05/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Swaraj Sharma, for petitioner
Mr. Arun Sharma, Dy.G.A.

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Instant petition has been filed assailing the order dated 7th January, 2003 [Ann.3] whereby appeal preferred by petitioner has been dismissed by learned Tribunal only on the ground of limitation and merits have not been examined.

From the ordersheet which has been placed on record by petitioner, it appears that the authority reserved the order after hearing counsel for parties on 30th May, 2000 and it was pronounced on 30th June, 2000. As per Rule 5.9 of Rajasthan Motor Vehicles Rules, 1990, the decision of the authority has to be intimated to the concerned applicant and as per reply filed by respondents, the intimation was sent to petitioner through UPC on 20th July, 2000. As per petitioner's own contention, he applied for obtaining the certified copy in the office of respondents on 27th July, 2000 which was finally made available to him on 8th December, 2000 and

within 30 days from certified copy being made available to him, he preferred appeal before learned Tribunal.

Learned Tribunal under the order impugned has observed that since certified copy was prepared on 4th August, 2000 and petitioner has not made efforts to obtain the same, on the said premise rejected his appeal on the ground of limitation.

Counsel for petitioner has brought to my notice Rule 12.33 and 12.34 where certified copy is ready for delivery and the applicant has not turned up, it shall be affixed on the notice Board and entry to this effect shall be made on the application and if applicant appears within two months, copy shall be made available to him and if he does not appear within the said stipulated period, the copy shall be destroyed and the entry to this effect be made in his application. There is no material on record to show that he was ever intimated by office of respondents complying with the Rule 12.33 & 12.34.

In my opinion, the finding which has been recorded by learned Tribunal under the order impugned while rejecting appeal on the ground of limitation in the facts of instant case is not legally sustainable.

Accordingly, the writ petition succeeds and the same is hereby allowed. The order of learned Tribunal dated 7th January, 2003 is hereby quashed and set aside and the matter is remanded back to the authority who will decide the same on merits after affording due opportunity to respective parties. No order as to costs.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.